



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
Legal Branch  
P. O. Box 1720  
Rancho Cordova, CA 95741-1720

STEVE WESTLY  
Chair  
CAROLE MIGDEN  
Member  
STEVE PEACE  
Member

### February 28, 2003 Franchise Tax Board Litigation Roster

All cases currently active and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list is also provided of new cases that have been added to the roster for the month as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: [www.ftb.ca.gov/legal/Lit\\_roster.pdf](http://www.ftb.ca.gov/legal/Lit_roster.pdf)

The Litigation Roster on the Internet site will be the latest version. It is normally revised on a monthly basis.

FRANCHISE AND INCOME TAX  
**CLOSED CASES – FEBRUARY 2003**

**Case Name**

**Court Number**

Jay, Russell C.

Los Angeles Superior Court No. BC255970

Perucci, Otto A. & Ruth V.

San Francisco Superior Court No. 311405

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FRANCHISE AND INCOME TAX  
**NEW CASES – FEBRUARY 2003**

**Case Name**

**Court Number**

Colgate-Palmolive, Company & Subsidiaries

Sacramento Superior Court No. 03AS00707

**FRANCHISE AND INCOME TAX  
MONTHLY REFUND LITIGATION ROSTER**

**FEBRUARY 2003**

**AMDAHL CORPORATION v. Franchise Tax Board**

San Francisco Superior Court Docket No. 321296

Filed – 05/14/01

Appellate Court 1<sup>st</sup> District Court No. A101101 (FTB)

**Appellate Court 1<sup>st</sup> District Court No. A101203 (Amdahl)**

*Taxpayer's Counsel*

Timothy K. Roake

Fenwick & West LLP

*FTB's Counsel*

Kristian Whitten

- Issues**
1. Whether Section 25106 was properly applied to the facts of this case in a manner which does not discriminate against foreign commerce.
  2. Whether Section 24411 was properly applied in this case.
  3. Whether Section 24411 discriminates against foreign commerce.
  4. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is a dividend for purposes of Sections 24411 and 25106 of the Revenue and Taxation Code.
  5. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is gross income.

**Years**      1988, 1989, 1991 and 1992      **Amount**      \$2,935,439.00

**Status**      **Defendant's Record on Appeal filed on February 25, 2003.**

**COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board**

Sacramento Superior Court Docket No. 03AS00707

Filed – 02/07/03

*Taxpayer's Counsel*

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

*FTB's Counsel*

Steven J. Green

- Issues**
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
  2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

**Years**      1974-1982, 1984-1987, 1989-1991      **Amount**      \$2,912,696.00

**Status**      **Summons and Complaint served on the Franchise Tax Board on February 13, 2003.**

**DAVIS, CRYSTAL TIFFANY v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC261559

Filed – 11/09/01

*Taxpayer's Counsel*

Martin N. Segal, Esq.

*FTB's Counsel*

Elisa B. Wolfe

Issue Whether a portion of an amount received in the settlement of a lawsuit was properly characterized as punitive damages and included in taxable income.

Year 1991 Amount \$5,038.00

Status **Hearing on Order to Show Cause re: Dismissal scheduled for April 30, 2003.**

**EDUCATIONAL EMPLOYEES CREDIT UNION, et al. v. Franchise Tax Board**

Sacramento Superior Court Docket No. 511821

Filed - 12/20/89

Court of Appeal, 3<sup>rd</sup> Appellate District, No. 3-CV-C020733

Taxpayer's Counsel

Joanne Garvey, & Teresa Maloney

Heller, Ehrman, White & McAuliffe

FTB's Counsel

**Steven J. Green**

Issue Whether defendant's determination as to the methodology for deduction of indirect expenses against taxable investment income was proper.

Years 1980 through 1985 Amount \$1,137,006.98

Status Waiting for Court of Appeal to set date for Oral Argument.

**FARMER BROS. CO. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC237663

Filed – 09/29/00

Court of Appeal, 2<sup>nd</sup> Appellate District Court No. 160061

Taxpayer's Counsel

Robin C. Campbell, Esq.

Anglin, Flewelling, Rasmussen, Campbell & Trytten, LLP

FTB's Counsel

Dean Freeman

Issue Whether Section 24402 of the Revenue and Taxation Code is unconstitutional under the United States Constitution.

Years 06/30/92 through 6/30/98 Amount \$814,705.00

Status **Defendant/Appellant's Reply Brief and Reply Appendix filed February 18, 2003.**

**FREIDBERG, EDWARD & TRACI E. REYNOLDS v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC-02-404182

Filed – 02/06/02

Taxpayer's Counsel

John E. Cassinat & Ronald L. Carello

Cassinat Law Corporation

FTB's Counsel

**Marguerite Stricklin**

Issues

1. Whether Plaintiffs' "horse breeding and racing business expenses" were deductible as business expenses in the years involved.
2. Whether expenses incurred by plaintiffs in horse breeding and racing activities were deductible as business expenses in the years involved.

<u>Years</u>	1991 through 1994	<u>Amount</u>	\$149,696.00
<u>Status</u>	<b>Trial on February 24, 2003, and continued to March 17, 2003, and March 18, 2003.</b>		

**FREYERMUTH, JANINE v. Franchise Tax Board**

San Francisco Superior Court Docket No. 308985

Taxpayer's Counsel

Janine Freyermuth, In Pro Per

Filed – 01/04/00

FTB's Counsel

Randall P. Borcharding

Issue Whether the taxpayer was a resident of California.

<u>Years</u>	1986 and 1987	<u>Amount</u>	\$47,471.00
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Status Order to Show Cause Re: Dismissal (CRC225).

**FREYERMUTH, REED v. Franchise Tax Board**

San Francisco Superior Court Docket No. 308973

Taxpayer's Counsel

Joel K. Belway, Esq.

Filed – 01/04/00

FTB's Counsel

**Randall P. Borcharding**

Issue Whether the taxpayer was a resident of California.

<u>Years</u>	1986 and 1987	<u>Amount</u>	\$47,471.00
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Status Notice of Bankruptcy of Reed Freyermuth served by mail on December 6, 2002.

**GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC269404

Taxpayer's Counsel

Charles R. Ajalat

Law Office of Ajalat, Polley & Ayoob

Filed – 03/06/02

FTB's Counsel

Stephen Lew, Donald

Currier & Joseph O'Heron

Issues

1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
2. Whether interest income was properly characterized as business income.
3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
5. Whether various receipts from intangible assets were properly excluded from the sales factor.
6. Whether research tax credits were properly limited to the entity incurring the expense.
7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.

8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years 1986 through 1988 Amount \$10,692,755.00

Status **Stipulation and Proposed Judgment submitted to the Court filed on February 20, 2003.**  
**Stipulation and Judgment entered by the Court on February 21, 2003.**

**HYATT, GILBERT P. v. Franchise Tax Board**

Clark County Nevada District Court No. A382999

Filed - 01/06/98

Nevada Supreme Court Case No. 35549 – Docket No. 36390 & 39274

U.S. Supreme Court No. 02-42

*Taxpayer's Counsel*

Thomas L. Steffen & Mark A. Hutchison

Hutchison & Steffen

H. Bartow Farr III

*FTB's Counsel*

Felix Leatherwood

- Issues
1. Whether plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
  2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
  3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years 1991 and 1992 Amount \$13,204,611.00

Status United States Supreme Court:  
**Reply Brief of Petitioner Franchise Tax Board filed on February 14, 2003. Oral Argument held on February 24, 2003, decision pending.**

Nevada Supreme Court:

*Docket No. 35549:* Appellant's Notice of Firm Name Change from McDonald Carano Wilson, McCune Bergin, Frankovich & Hicks LLP to McDonald Carano Wilson LLP, filed November 20, 2002.

Clark County District Court:

**Trial scheduled for February 3, 2004.**

**IN THE CLUB, INC. AND PURE CLASS, INC. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. 02K17484

Filed – 09/20/02

*Taxpayer's Counsel*

Charles P. Rettig, Steven D. Blanc, Sharyn Fisk

Hochman, Salkin, Rettig, Tocher & Perez, P.C.

*FTB's Counsel*

George M. Takenouchi

Issue Whether penalties for the late payment of taxes were properly assessed.

Status Hearing held on December 19, 2002, on Motion to Reclassify Action.

**J.H. MCKNIGHT RANCH, INC. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 303484

Filed - 05/13/99

Court of Appeal, 1<sup>st</sup> Appellate District No. A098729

*Taxpayer's Counsel*

Jon S. Siamas, Esq.

Carl J. Stoney, Esq.

Crosby, Heafey, Roach & May

*FTB's Counsel*

David Lew

Issues

1. Whether the court has jurisdiction when the interest owing with respect to the underlying assessment has not been paid.
2. Whether the "tax benefit" rule operates to allow income realized from the cancellation of indebtedness to be disregarded.
3. Whether the "contested liability doctrine" allows deductions incurred in prior years to be reported in the year the indebtedness was discharged.

Year

1990

Amount

\$97,258.00

Status

Stipulation Extending Due date for Defendant/Appellant's Reply Brief to March 28, 2003, mailed to the parties on January 21, 2003.

**JIM BEAM BRANDS CO. v. Franchise Tax Board**

San Francisco Superior Court No. CGC-02-408203

Filed - 05/21/02

*Taxpayer's Counsel*

Charles J. Moll III

Edwin P. Antolin

Morrison & Foerster LLP

*FTB's Counsel*

George C. Spanos

Issues

1. Whether the gain realized on the sale of all of the stock of a subsidiary was properly classified as business income.
2. Assuming the gain on the sale of all of the stock was business, whether the FTB properly computed the basis of the stock.

Year

1987

Amount

\$133,042.00

Status

Demurrer was overruled on January 7, 2003. Answer to the Complaint filed on January 27, 2003.

**THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board**

Alameda Superior Court Docket No. 837723-0

Filed - 04/09/01

*Taxpayer's Counsel*

Amy L. Silverstein, Anthony P. Canini and

Andres Vallejo

Morrison & Foerster, LLP

*FTB's Counsel*

Joyce Hee

Issues 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.  
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years 1993 and 1994 Amount \$2,185,718.00

Status Discovery proceeding. **Hearing on Cross-Motion for Summary Judgment held on February 4, 2003, decision pending. Trial scheduled for June 23, 2003.**

**Longbrook, Michael G. & Barbara J. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. 02K21208

Filed – 11/18/02

Taxpayer's Counsel

FTB's Counsel

Michael G. & Barbara J. Longbrook, In Pro Per

Elisa Wolfe

Issue Whether the frivolous return penalty provided by § 19179 has been properly assessed.

Years 1997 and 1998 Amount \$1,000.00 Penalty

Status **Hearing on Plaintiffs' Request for Default; Default granted \$1.00 given to Plaintiffs on February 14, 2003.**

**Marken, Donald W. & Claudine H v. Franchise Tax Board**

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1<sup>st</sup> Appellate Dist. No. A091644

California Supreme Court No. S 104529

Taxpayer's Counsel

FTB's Counsel

William E. Taggart, Jr.

Marguerite Stricklin

Taggart & Hawkins

Issue Whether plaintiffs were residents of California in 1993.

Year 1993 Amount \$244,012.00

Status California Supreme Court denied Defendant/Appellant's Request for Publication on May 1, 2002. Parties considering going to trial.

**Marro, Donald C. and Lillian S. Clancy v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC 02-414788 Filed – 11/18/02

Taxpayer's Counsel

FTB's Counsel

Donald C. Marro, In Pro Per

Kristian Whitten

Issue Whether assessments based on federal adjustments were timely made.

Years 1993 and 1994 Amount \$9,267.00



Status      **Defendant's Demurrer filed on February 20, 2003. Hearing on Demurrer scheduled for April 2, 2003.**

**MARTIN, SCOTT R. v. Franchise Tax Board**

US Dist. Ct, Northern District of California Case No. C02-05446

Taxpayer's Counsel

Scott R. Martin, In Pro Per

Filed – 11/18/02

FTB's Counsel

Anne Michelle Burr

Issue      Whether 46 USC § 11108 AND 11109 exempts the income of a merchant seaman from taxation.

Year      1999      Amount      \$9,399.00

Status      **Petitioner's Opposition to Motion to Dismiss; Memorandum of Points and Authorities in Support of Opposition to Motion to Dismiss served by mail on February 27, 2003. Defendant's Amended Notice of Motion and Motion to Dismiss served by mail on February 27, 2003.**

**MCMENAMIN, JAMES & KATHRYN v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC223616

Taxpayer's Counsel

Kathryn McMenamin-Torres

Callero & McMenamin-Torres

Filed – 01/25/00

FTB's Counsel

Thomas Heller

Issues      1. Whether the plaintiffs were residents of California during the subject years.  
2. Whether the consideration of certain facts in making a determination of residency was constitutional.  
3. Whether the amount of net operating loss claimed on a 1989 nonresident return was properly calculated.  
4. Whether dividend income from a particular investment fund was exempt from California taxation.  
5. Whether a negligence penalty was properly imposed.  
6. Whether a failure to furnish information penalty was properly imposed.  
7. Whether interest should be abated on any deficiencies which may exist.  
8. Whether plaintiffs are entitled to attorney's fees.

Years      1986 through 1989      Amount      \$99,663.00 Tax  
\$69,383.55 Penalty

Status      **Plaintiffs' Proposed Statement of Decision and Proposed Judgment filed January 24, 2003. Defendant's Objections to Plaintiffs' Proposed Statement of Decision and Proposed Judgment filed February 7, 2003. Plaintiffs' Notice of Errata filed February 18, 2003. Plaintiffs' Proposed Statement of Decision Amended filed February 18, 2003. Objection of Franchise Tax Board to Plaintiffs' Proposed Statement of Decision Amended filed February 26, 2003.**

**MICROSOFT Corporation v. Franchise Tax Board**

San Francisco Superior Court Docket No. 400444

Taxpayer's Counsel

James P. Kleier, Esq.

Preston Gates &amp; Ellis, LLP

Filed – 10/19/01

FTB's Counsel

Julian O. Standen

- Issues
1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
  2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
  3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year      1991      Amount      \$1,879,809.00

Status      **Trial rescheduled to March 24, 2003.**

**MILHOUS, PAUL B. & MARY A. v. Franchise Tax Board**

San Diego Superior Court Docket No. GIC772282

Taxpayer's Counsel

Steve Mather.

Kajan, Mather and Barish

Filed – 08/27/01

FTB's Counsel

Leslie Branman-Smith

Issue      Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year      1993      Amount      \$227,246.00

Status      **Plaintiffs' Amended Complaint filed February 6, 2003. Defendant's Answer to Amended Complaint filed February 13, 2003. Defendant's Motion to Strike Portion of Amended Complaint filed February 21, 2003. Trial Conference rescheduled for March 14, 2003. Trial rescheduled for March 21, 2003.**

**MILHOUS, ROBERT E. & GAIL P. v. Franchise Tax Board**

San Diego Superior Court Docket No. GIC773381

Taxpayer's Counsel

Steve Mather.

Kajan, Mather and Barish

Filed – 08/27/01

FTB's Counsel

Leslie Branman-Smith

Issue      Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year      1993      Amount      \$670,825.00

Status      **Plaintiffs' Amended Complaint filed February 6, 2003. Defendant's Answer to Amended Complaint filed February 13, 2003. Defendant's Motion to Strike Portion of Amended Complaint filed February 21, 2003. Trial Conference rescheduled for March 14, 2003. Trial rescheduled for March 21, 2003.**

## MONTGOMERY WARD LLC v. Franchise Tax Board

San Diego Superior Court Docket No. GIC802767

*Taxpayer's Counsel*

Charles J. Moll III, Edwin P. Antolin, Pilar M. Sansone

Morrison & Foerster LLP

Filed – 12/30/02

FTB's Counsel

Gregory Price

<u>Issues</u>	<ol style="list-style-type: none"> <li>Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.</li> <li>Whether section 24402 Rev. &amp; Tax. Code is constitutional.</li> </ol>
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<u>Years</u>	1989 through 1994	<u>Amount</u>	\$2,694,192.00
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**Status**      **Answer to the Complaint filed on January 31, 2003.**

**NOBLE, HOMER E. AND STEPHANIE F. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC273634

Taxpayer's Counsel

Richard W. Craigo

Filed - 05/09/02

### *FTB's Counsel*

**Anthony Sgherzi**

Issue      The issue is on what date during 1994 did plaintiffs cease to be residents and domiciliaries of California?

Year	1994	Amount	\$151,632.00
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<u>Status</u>	<b>Trial held on February 19, 2003, Post Trial Brief filed on February 28, 2003. Rehearing on Post Trial Brief scheduled for March 5, 2003.</b>
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## ORDLOCK, BAYARD M. &amp; LOIS S. v. Franchise Tax Board

Los Angeles Superior Court Case No. BC278386

*Taxpayer's Counsel*

Richard C. Field

Bingham McCutchen LLP

Filed – 07/25/02

### *FTB's Counsel*

David Bornstein

Issue	Whether the tax involved was timely assessed.
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Year	1983	Amount	\$12,350.00
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<u>Status</u>	Mediation Status Conference held on November 22, 2002. Management Conference held on December 12, 2002. Notice of Motion and Motion of Defendant for Summary Judgment filed on December 31, 2002.
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**PACIFIC TELESIS GROUP, INC. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 319008

*Taxpayer's Counsel*

Allan L. Schare

McDermott, Will &amp; Emery

Filed – 02/20/01

*FTB's Counsel*

David Lew

Anne M. Burr

Issue What is the proper amount of depreciation deduction with respect to property acquired from former unitary affiliates?

Years 1987 through 1990 Amount \$9,960,422.00

Status **Closing Arguments, Reporter's Transcript of Proceedings filed on February 3, 2003.**

**PAINE, THOMAS & TERESA A. NORTON v. Franchise Tax Board**

San Francisco Superior Court Docket No. 324518

*Taxpayer's Counsel*

Edward Winslow

Layman, Lempert &amp; Winslow

Filed – 09/13/01

*FTB's Counsel*

Marguerite Stricklin

Issues 1. Whether the plaintiffs became residents of California on April 10, 1990.  
2. Whether "guaranteed payments" received by plaintiffs while residents of California from a partnership could be included in the income taxed by California.

Years 1990, 1996 through 1999 Amount \$144,278.00

Status Tentative Decision in favor of Plaintiffs on January 23, 2003.

**THE PILLSBURY COMPANY, a Delaware Corp. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 414931

*Taxpayer's Counsel*

Jeffrey M. Vesely, Esq.

Richard E. Nielsen, Esq.

Pillsbury Winthrop, LLP

Filed – 11/21/02

*FTB's Counsel*

David Lew

Issue Whether California definition of gross income incorporated amendments to the Internal Revenue Code dealing with losses of Alaska Native Corporation.

Years 1986 and 1987 Amount \$1,138,512.00

Status Summons and Complaint filed on November 21, 2002, and served by mail to Franchise Tax Board on December 3, 2002. Answer to the Complaint filed on January 23, 2003.

**RAUTENBERG, ERWIN v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC254725  
Court of Appeal, 2<sup>nd</sup> Appellate District Div. 4 No. B157513

Filed – 09/04/01

Taxpayer's Counsel

Willard D. Horwich

FTB's Counsel

Don Currier

Issue Whether a payment received from an S Corporation by its sole shareholder can be excluded from the individual's income as a non-taxable tort recovery.

Year 1994 Amount \$393,462.00

Status Appellate Court Affirms Imposition of Income Tax in favor of Franchise Tax Board on January 28, 2003.

**ROBINSON, CHERISH F. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC261557

Filed – 11/09/01

Taxpayer's Counsel

Martin N. Segal, Esq.

FTB's Counsel

Elisa B. Wolfe

Issue Whether a portion of an amount received in the settlement of a lawsuit was properly characterized as punitive damages and included in taxable income.

Year 1991 Amount \$5,038.00

Status **Hearing on Order to Show Cause re: Dismissal scheduled for April 30, 2003.**

**TIFFANY, ALEX A. & PATRICIA A. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC261558

Filed – 11/09/01

Taxpayer's Counsel

Martin N. Segal, Esq.

FTB's Counsel

Elisa B. Wolfe

Issue Whether a portion of an amount received in the settlement of a lawsuit was properly characterized as punitive damages and included in taxable income.

Year 1991 Amount \$6,953.00

Status **Hearing on Order to Show Cause re: Dismissal scheduled for April 30, 2003.**

**TOY'S "R" Us, Inc. & Affiliates v. Franchise Tax Board**

Sacramento Superior Court Docket No. 01AS04316

Filed - 07/17/01

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

FTB's Counsel

Michael J. Cornez

<u>Issue</u>	Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.		
<u>Years</u>	1991 through 1994	<u>Amount</u>	\$5,342,122.00
<u>Status</u>	Trial Setting Conference held on November 18, 2002. Trial postponed on January 22, 2003, to May 5, 2003.		

**WEINGARTEN, SAUL M. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 996766

Taxpayer's Counsel

Saul M. Weingarten

Saul M. Weingarten & Associates

Filed - 7/28/98

FTB's Counsel

Marguerite Stricklin

<u>Issues</u>	<ol style="list-style-type: none"> <li>1. Whether the Board of Equalization followed proper procedures in considering the taxpayer's appeal.</li> <li>2. Whether taxpayer's real estate investments were subject to passive activity loss limitations.</li> <li>3. Whether FTB properly calculated depreciation with respect to various properties.</li> <li>4. Whether FTB properly calculated the sales price of a piece of property sold by the taxpayer.</li> <li>5. Whether penalties were improperly imposed.</li> </ol>
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<u>Years</u>	1987 through 1989	<u>Amount</u>	\$88,966.00 Tax \$22,241.75 Penalty
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<u>Status</u>	Answer to Complaint filed October 27, 1998.
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**YOSHINOYA WEST, INC. v. Franchise Tax Board**

Los Angeles Superior Court, Central District No. BC274343

Taxpayer's Counsel

Dwayne M. Horii

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

<u>Issues</u>	<ol style="list-style-type: none"> <li>1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.</li> <li>2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.</li> </ol>
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<u>Years</u>	1986 and 1987	<u>Amount</u>	\$1,741,534.00
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<u>Status</u>	Trial Scheduled for November 12, 2003.
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